

### **REMARKS**

Initially, in the Office Action the Examiner has objected to claims 4, 13, and 22 under 37 C.F.R. §1.75(c) as being of improper dependent form. Claims 1 – 3, 10 – 12 and 19 – 21 have been rejected under 35 U.S.C. §112, second paragraph. Claims 10 – 18 have been rejected under 35 U.S.C. §101. Claims 1, 4, 5, 7, 10, 13, 14, 16, 19, 22, 23, and 25 have been rejected under 35 U.S.C. §102(a) and (e) as being anticipated by U.S. Patent Application Publication No. 2001/0039514 (Barenbaum). Claims 2, 3, 6, 8, 9, 11, 12, 15, 17, 18, 20, 21, 24, 26, and 27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Barenbaum.

By the present response, Applicant has amended claims 1 – 3, 10 – 12, 14, 15, and 19 – 21 to further clarify the invention. Claims 1 – 27 remain pending in the present application.

#### **Claim Objections**

Claims 4, 13, and 22 have been objected to under 37 C.F.R. §1.75(c). Applicant respectfully traverses these rejections and submits that these claims are in proper dependent form. The claims further limit the “promotional offer code data” to defining the format and content of a promotional offer entry. The Examiner asserts “that when a promotional offer is sent, it must indicate with the offer the defined format and content required for entry”. Applicant submits that the Examiner is making assumptions regarding the limitations in the claims of the present application. Applicant has the ability to define the meaning and scope of terms recited in Applicant’s claims. Therefore, when a promotional offer is sent, it need not indicate with the offer, the defined format and content required for entry as the Examiner asserts. Accordingly, Applicant respectfully requests that these rejections be withdrawn.

#### **35 U.S.C. §112 Rejections**

Claims 1 – 3, 10 – 12, and 19 – 21 have been rejected under 35 U.S.C. §112, second paragraph. Applicant has amended these claims to further clarify the invention and respectfully requests that these rejections be withdrawn.

35 U.S.C. §101 Rejections

Claims 10 – 18 have been rejected under 35 U.S.C. §101. Applicant has amended these claims to further clarify the invention and respectfully requests that these rejections be withdrawn.

35 U.S.C. §102 Rejections

Claims 1, 4, 5, 7, 10, 13, 14, 16, 19, 22, 23, and 25 have been rejected under 35 U.S.C. §102(a) and (e) as being anticipated by Barenbaum et al. Applicant respectfully traverses these rejections.

Barenbaum et al. discloses managing excess capacity for events that have a natural expiration and/or other products and services, where users may be notified of a time sensitive digital deal via a wireless device. Digital deals may be conveyed by the system based on user profile (and/or other) data or may be prompted by user initiation. A client may inform the server of the present invention of the available of a resource (e.g., available seats) for a time sensitive event. The server may process this information and alert potential users via a text message on a wireless device. In addition, a user may request digital deals from the server based on advertisement or other user prompt. The server may provide the requested digital deal to the user via wireless communication in the form of a text message or voice message. The system may convey a visual display associated with a digital deal to the user's wireless device that may be shown to a point-of-sale entity for redemption.

Regarding claims 1, 10, and 19, Applicant submits that Barenbaum et al. does not disclose or suggest the limitations in the combination of each of these claims of, *inter alia*, promotional offer code data that has been pre-stored in the mobile phone, the promotional offer code data comprising parameters of a sponsor of a promotional campaign that awards prizes to winners of the promotional campaign. The Examiner asserts that these limitations are disclosed in Barenbaum et al. in paragraphs 10, 34, and 35. However, these portions merely disclose a consumer creating a message that may include a consumer identifying the consumers wireless device, address information and wireless service provider and referencing a digital deal code associated with the displayed information, that a user may access a server to register with the system of a wireless promotion service or function where the user may provide profile data to

enable the user to be informed of digital deals that are of interest to the user, and that when an excess capacity occasion arises for an event of natural expiration, the client/provider may access a wireless promotions server and provide input data related to the event to entice potential users to fill up seats and/or use other limited resources. This is not promotional offer code data that has been pre-stored in the mobile device, the promotional offer code data comprising parameters of a sponsor of a promotional campaign that awards prizes to winners of the promotional campaign, as recited in the claims of the present application. Barenbaum et al. merely discloses storing information related to the mobile device. Barenbaum et al. does not disclose or suggest promotional offer code data comprising parameters of a sponsor of a promotional campaign, as recited in the claims of the present application. Barenbaum et al. does not disclose or suggest a sponsor of a promotional campaign or storing promotional offer code data comprising parameters of a sponsor. Further, Barenbaum et al. does not disclose or suggest storing promotional offer code data comprising parameters of a sponsor of a promotional campaign that awards prizes to winners of the promotional campaign. These limitations are neither disclosed nor suggested by Barenbaum et al.

Regarding claims 4, 5, 7, 13, 14, 16, 22, 23, and 25, Applicant submits that these claims are dependent on one of independent claims 1, 10, and 19 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Barenbaum et al. does not disclose or suggest the limitations in the combination of each of claims 1, 4, 5, 7, 10, 13, 14, 16, 19, 22, 23, and 25 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

### 35 U.S.C. §103 Rejections

Claims 2, 3, 6, 8, 9, 11, 12, 15, 17, 18, 20, 21, 24, 26, and 27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Barenbaum et al. Applicant respectfully traverses these rejections and submits that these claims are dependent on one of independent claims 1, 10, and 19 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Barenbaum et al. does not disclose, suggest or render obvious the limitations in the combination of each of claims 2, 3, 6, 8, 9, 11, 12, 15, 17, 18, 20, 21, 24, 26, and 27 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing amendments and remarks, Applicants submit that claims 1-27 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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